

Interview Summary

The undersigned attorney contacted Examiner Pratt on June 15th, 2007 to discuss the Office Action. In particular, the Examiner was reminded that during prior prosecution, an affidavit was submitted indicating that reliance on the "American Classic Label" was improper as the label was an indication of peanut butter manufactured by the Applicants shortly before filing of the provisional application (60/425,980) claimed as a priority application, and incorporated by reference in the present application. After the undersigned noted that all rejections based upon the label had been previously withdrawn, the Examiner acknowledged the error of reintroducing the label as the basis for a rejection and agreed that current reliance on the label was improper. The Examiner further indicated that Applicants should nonetheless address the rejections in a reply, but stated that in the event that a further rejection was made, such a rejection would not be "final," in view of the current Office Action improperly relying on the label. The Examiner further requested that Applicants submit evidence that the Rombauer recipe would result in a "peanut butter" that separated.

A subsequent discussion as to the teachings of remaining references ensued and the Examiner urged that the prior references such as Rombauer taught the claimed invention, but suggested that Applicants consider providing evidence that Rombauer or other references that did not use stabilizers (e.g., hydrogenated oils) would demonstrate separation after some period of time.

No agreement was reached as to the patentability of all or some of the claims.